

1 **J. DAVID NICK, Esq. (SB#157687)**
2 **EDITTE LERMAN, Esq. (SB#241471)**
3 45060 Ukiah Street
4 P.O. Box 802
Mendocino, CA 95460
Tel: (707) 937-1711
Fax: (707) 937-2207

5 Attorneys for Plaintiff
6 ZACHARIAH JUDSON RUTLEDGE

7
8 UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 * * * * *

12 ZACHARIAH JUDSON RUTLEDGE,	)	CASE NO.: CV 07-04274 EMC
)	
13 Plaintiff,	)	FIRST AMENDED COMPLAINT FOR
	)	DAMAGES FOR VIOLATION OF CIVIL
14 vs.	)	RIGHTS; INTENTIONAL/NEGLIGENT
	)	INFLECTION OF EMOTIONAL
15 COUNTY OF SONOMA,	)	DISTRESS; ASSAULT AND BATTERY;
MICHAEL POTTS, RUSSEL L.	)	FALSE ARREST AND IMPRISONMENT;
16 DAVIDSON, JAMES PATRICK CASEY,	)	UNLAWFUL SEARCH; SLANDER AND
CHRISTINE M. COOK, DETECTIVE	)	LIBEL; AND VIOLATION OF THE
17 BEAU R. MARTIN, SONOMA	)	CALIFORNIA UNRUH CIVIL RIGHTS
COUNTY SHERIFF'S DEPARTMENT;	)	ACT
18 SONOMA COUNTY DISTRICT)	
ATTORNEY'S OFFICE; and DOES 1)	
19 through 40.)	
)	
20 Defendants.	)	DEMAND FOR JURY TRIAL

21
22 **INTRODUCTION**

23
24
25 1. In the underlying criminal case, People v. Rutledge, Sonoma County Superior Court
26 case number MCR-443363 and related case no. SCR32528 (hereinafter "underlying criminal

1 matter”), Plaintiff, Zachariah Rutledge was acquitted of all charges connected to a 1998 murder
2 of two Russian River-area men, ending a four-year legal battle. During the investigation and
3 prosecution of the double murder trial the police and prosecutors engaged in a campaign of
4 misconduct, which included misleading the magistrate, falsification, fabrication and
5 concealment of evidence. At one point, the underlying criminal matter was dismissed after a
6 state criminalist admitted that he gave false testimony about the prosecution’s key evidence and
7 laboratory tests during a preliminary hearing. Nonetheless, prosecutors re-filed the charges and
8 the case reached trial. Jurors took less than two days to return a verdict of not guilty on two
9 counts of murder and one count of burglary.

10 2. This case also addresses the defendants’ actions involving an ongoing conspiracy and
11 practice of withholding and concealing exculpatory evidence in criminal matters, in a wholesale
12 violation of the constitutional rights of the plaintiff. Defendants have engaged in, and continue
13 to engage in, an ongoing pattern of callous, malicious and oppressive disregard for the rights of
14 all citizens, as set forth specifically below. In committing the despicable acts alleged herein,
15 Defendants have deprived the plaintiff of his constitutional rights under the color of authority
16 and law.

17 GENERAL ALLEGATIONS

18
19
20 3. This action arises under the Civil Rights Act of 1871, 42 U.S.C. Sections 1983, 1985
21 and 1988, and the First, Fourth, Fifth, and Fourteenth Amendments to the Constitution of the
22 United States. This Court has jurisdiction of the federal claims under 28 U.S.C. Section 1331,
23 1332, 1343(3) 1343(4), 2201, and 2202. This court has pendent jurisdiction over the state
24 claims.

25
26 4. This action also arises under the California Tort Claims Act (California Government

1 Code¹ Gov Code §§ 810 et seq), the California Unruh Civil Rights Act (California Civil Code²
2 § 51 et seq and CCC § 52 et seq) and Article I, Sections 13, 15 and 17 of the California
3 Constitution³.

4
5 5. Plaintiff, ZACHARIAH JUDSON RUTLEDGE (hereinafter "PLAINTIFF") was at all
6 times mentioned herein a citizen of the United States, the State of California and a resident of
7 the County of Sonoma.

8
9 6. Defendant, COUNTY OF SONOMA (hereinafter "COUNTY") is a political subdivision
10 of the State of California.

11
12 7. Defendants, COUNTY OF SONOMA, DISTRICT ATTORNEY'S OFFICE OF
13 SONOMA COUNTY, and SONOMA COUNTY SHERIFF'S DEPARTMENT, acting through
14 its agents and employees, hereinafter named, under the color of law, statute, ordinance,
15 regulation, custom or usage, and with the apparent authority of the COUNTY OF SONOMA,
16 DISTRICT ATTORNEY'S OFFICE OF SONOMA COUNTY, and SONOMA COUNTY
17 SHERIFF'S DEPARTMENT, violated PLAINTIFF's Fourth, Fifth, Sixth and Fourteenth
18 Amendment rights under the United States Constitution, in violation of 42 U.S.C. §§ 1983,
19 1985 and his rights under Article I, Sections 13, 15 and 17 of the Cal Const.

20 8. The acts of the defendants that constitute deprivation of PLAINTIFF's civil rights and
21 are the basis of the claims in this action include, in part:

22 a. Denial of Fourth and Fourteenth Amendment rights:

23
24 _____
¹ California Government Code is hereinafter "CGC".

25 ² California Civil Code is hereinafter "CCC".

26 ³ California Constitution is hereinafter "Cal Const".

1 i. By unlawfully and wrongfully seizing PLAINTIFF's person without probable cause,
2 causing his unlawful detention and incarceration on serious charges based on facts that they
knew or should have known were false;

3 ii. By unlawfully and wrongfully seizing PLAINTIFF's person in clear violation of due
4 process.

5 b. Denial of Fifth and Fourteenth Amendment rights:

6 i. By knowingly and willfully submitting false data and evidence regarding an investigation
that led to PLAINTIFF's arrest;

7 ii. By knowingly and willfully uttering false testimony at PLAINTIFF's preliminary
8 hearing that led to PLAINTIFF's holding order on murder charges;

9 iii. By conspiring to suborn perjured police and forensic criminalist testimony;

10 iv. By knowingly, willfully, and wrongfully concealing information that would have
11 assisted PLAINTIFF in his defense against serious criminal charges.

12 c. Denial of PLAINTIFF's Sixth and Fourteenth Amendment rights:

13 i. By failing to timely disclose "Brady" material, exculpatory evidence, to PLAINTIFF's
14 defense counsel;

15 ii. By concealing discoverable information from PLAINTIFF's defense counsel;

16 iii. By permitting and encouraging known perjured testimony to be produced at
17 PLAINTIFF's preliminary hearing and trial in the underlying criminal matter.

18 9. Defendant, SENIOR CRIMINALIST MICHAEL POTTS (hereinafter "POTTS"), and
19 DOES 1 through 10, and are sued herein in their individual and official capacities, were, in
20 performing the acts alleged herein, acting as agents of the California Department of Justice
21 Bureau of Forensic Services (hereinafter "DOJ"), employed by DOJ, in an individual and/or
22 official capacity, in the course and scope of their employment, and in performing all of the acts
23 alleged herein, defendants acted under color of the statutes, ordinances, regulations, customs
24 and usages of the DOJ, and under the official policy, custom and practice of DOJ.

25 10. Defendants, DETECTIVE RUSSEL L. DAVIDSON (hereinafter "DAVIDSON"),
26

1 DETECTIVE BEAU R. MARTIN (hereinafter "MARTIN") and DOES 11 - 20 were employed
2 by the SONOMA COUNTY SHERIFF'S DEPARTMENT at the time PLAINTIFF was arrested
3 and incarcerated and are sued herein in their individual and official capacities, as they were
4 acting according to individual and/or official capacities, in the course and scope of their duty,
5 and in performing all of the acts alleged herein, defendants acted under color of state law and
6 under the official policy, custom and practice of SONOMA COUNTY SHERIFF'S
7 DEPARTMENT.

8
9 11. Defendants, MICHAEL POTTS (hereinafter "POTTS") and DOES 1 through 10, sued
10 herein in their individual and official capacities, were, in performing the acts alleged herein,
11 acting as agents of THE SONOMA COUNTY SHERIFF'S DEPARTMENT, and acting
12 according to individual and/or official capacities, in the course and scope of their duty, and in
13 performing all of the acts alleged herein, defendants acted under color of the statutes,
14 ordinances, regulations, customs and usages of the SONOMA COUNTY SHERIFF'S
15 DEPARTMENT, and under the official policy, custom and practice of the SONOMA COUNTY
16 SHERIFF'S DEPARTMENT.

17 12. Defendants, DISTRICT ATTORNEY J. MICHAEL MULLINS (hereinafter
18 "MULLINS"), DISTRICT ATTORNEY STEPHAN R. PASSALACQUA (hereinafter
19 "PASSALACQUA"), DEPUTY DISTRICT ATTORNEY JAMES PATRICK CASEY
20 (hereinafter "CASEY"), DEPUTY DISTRICT ATTORNEY GREG JACOBS (hereinafter
21 "JACOBS"), ASSISTANT DISTRICT ATTORNEY CHRISTINE M. COOK (hereinafter
22 "COOK"), and DOES 21 – 30, are sued herein in their individual and official capacities, were
23 employed by the DISTRICT ATTORNEY'S OFFICE OF SONOMA COUNTY⁴ (hereinafter
24 "D.A.'s OFFICE"), or were acting according to individual and/or official capacities, within and
25

26 ⁴ DISTRICT ATTORNEY'S OFFICE OF SONOMA COUNTY is hereinafter "D.A.'s OFFICE".

1 outside, the course and scope of their employment, and, in performing all of the acts alleged
2 herein, defendants acted under color of the statutes, ordinances, regulations, customs and usages
3 of the D.A.'s OFFICE, and under the official policy, custom and practice of the D.A.'s
4 OFFICE.

5
6 13. Defendants, DISTRICT ATTORNEY J. MICHAEL MULLINS and DISTRICT
7 ATTORNEY STEPHAN R. PASSALACQUA, are sued herein in their individual and official
8 capacities, were in performing the acts alleged herein, also acting as an agents of the DISTRICT
9 ATTORNEY'S OFFICE OF SONOMA COUNTY, in a supervisor capacity, were acting
10 according to individual and/or official capacities, in the course and scope of their employment,
11 in performing the acts alleged herein that are connected to their supervisory duties within the
12 D.A.'s OFFICE, and acted under color of the statutes, ordinances, regulations, customs and
13 usages of the D.A.'s OFFICE, and under the official policy, custom and practice of the D.A.'s
14 OFFICE.

15 14. Defendants, DEPUTY DISTRICT ATTORNEY JAMES PATRICK CASEY and
16 DEPUTY DISTRICT ATTORNEY GREG JACOBS, are sued herein in their individual and
17 official capacities, were in performing the acts alleged herein, also acting as agents of the
18 DISTRICT ATTORNEY'S OFFICE OF SONOMA COUNTY, in an investigative capacity, and
19 were acting according to individual and/or official capacities, in the course and scope of their
20 duty and employment, and acting outside the scope of their duty, in performing the acts alleged
21 herein that are connected to their investigative duties within the D.A.'s OFFICE, defendants
22 acted under color of the statutes, ordinances, regulations, customs and usages of the D.A.'s
23 OFFICE, and under the official policy, custom and practice of the D.A.'s.

24
25 15. Defendants, DEPUTY DISTRICT ATTORNEY JAMES PATRICK CASEY and
26 DEPUTY DISTRICT ATTORNEY GREG JACOBS, are sued herein in their individual and

1 official capacities, were in performing the acts alleged herein, also acting as agents of the
2 SONOMA COUNTY SHERIFF'S DEPARTMENT, and were acting in an investigative
3 capacity, according to individual and/or official capacities, in the course and scope of their duty;
4 and in performing all of the acts alleged herein, defendants acted under color of the statutes,
5 ordinances, regulations, customs and usages of the SONOMA COUNTY SHERIFF'S
6 DEPARTMENT, and under the official policy, custom and practice of the SONOMA COUNTY
7 SHERIFF'S DEPARTMENT.

8
9 16. The true names and capacities of Defendants DOES 1 through 30 are unknown to the
10 PLAINTIFF. Each of these fictitiously named parties has acted as agent of or in concert with
11 the named defendants in the matters referred to herein and is responsible in some manner for the
12 damages suffered by PLAINTIFF. PLAINTIFF will amend this complaint to add the names
13 and capacities of such defendants when ascertained.

14 **FACTUAL ALLEGATIONS**
15

16 17. On, or about, August 3, 2000, POTTS authored a forensic laboratory report, which
17 included stated facts that were false for the purposes of connecting PLAINTIFF to a double
18 murder, which occurred on, or about, October 23, 1998. The false facts were included in the
19 forensic laboratory report with malice and reckless disregard of the truth.
20

21 18. On, or about, May 8, 2002, CASEY, commanded DAVIDSON to draft a Declaration in
22 Support of Warrant of Arrest, which was dated May 8, 2002.

23
24 19. On, or about, May 8, 2002, CASEY ordered DAVIDSON to arrest PLAINTIFF.
25
26

1 20. On, or about, May 8, 2002 DAVIDSON drafted a Declaration in Support of Warrant of
2 Arrest, which was dated May 8, 2002, under the direct supervision of CASEY.

3
4 21. CASEY, POTTS, and DAVIDISON agreed to present a false affidavit containing false
5 evidence to the magistrate through the Declaration in Support of Warrant of Arrest that was
6 dated May 8, 2002.

7
8 22. CASEY and DAVIDSON agreed to omit known exculpatory evidence from the
9 Declaration in Support of Warrant of Arrest that was dated May 8, 2002, in an effort to deceive
10 and mislead the magistrate into issuing the requested Arrest Warrant attached to PLAINTIFF.

11
12 23. DAVIDSON omitted exculpatory evidence from the Declaration in Support of Warrant
13 of Arrest Made that was dated May 8, 2002, in an effort to deceive and mislead the magistrate
14 into issuing the requested Arrest Warrant attached to PLAINTIFF.

15
16 24. On, or about, May 8, 2002, CASEY made the decision to arrest PLAINTIFF.

17
18 25. On, or about, May 8, 2002, under the direction and supervision of CASEY, MARTIN
19 drafted a Search Warrant Affidavit, which included a statement of probable cause to search
20 PLAINTIFF's residence. The Search Warrant Affidavit failed to support probable cause to
21 search PLAINTIFF's residence.

22
23 26. On, or about, May 8, 2002 CASEY, DAVIDSON and DOES 11-20 arrested
24 PLAINTIFF.

1 27. On, or about, May 8, 2002 CASEY, DAVIDSON and DOES 11-20 imprisoned
2 PLAINTIFF.

3
4 28. On, or about, May 8, 2002 CASEY, DAVIDSON and DOES 11-20 unlawfully searched
5 PLAINTIFF's residence, pursuant to an invalid search warrant. CASEY, DAVIDSON and
6 DOES 11-20 possessed knowledge that the search warrant was not valid at the time of the
7 search.

8
9 29. At no time during PLAINTIFF's arrest did any of the officers have probable cause to
10 arrest PLAINTIFF.

11
12 30. PLAINTIFF did not consent to his detention or his arrest, nor did he resist in any
13 manner.

14
15 31. PLAINTIFF did not consent to a search of his residence at any time.

16
17 32. POTTS provided assistant district attorney JACOBS information, wherein POTTS
18 admitted to presenting false testimony at the preliminary examination of the underlying criminal
19 matter.

20
21 33. During the prosecution of the underlying criminal matter JACOBS knew of the
22 existence of exculpatory evidence and that it was in the possession of the prosecutorial team.
23 The PLAINTIFF requested the exculpatory evidence from the prosecutor during the prosecution
24 of the underlying criminal matter. JACOBS interfered with the disclosure of the exculpatory
25 evidence and knowingly withheld the exculpatory evidence. JACOBS continued to withhold
26

1 the exculpatory evidence despite having been urged by the Department of Justice (DOJ)
2 that full disclosure be made.

3
4 34. During the prosecution of the underlying criminal matter CASEY had knowledge of the
5 existence of exculpatory evidence that was in the possession of the prosecutorial team. The
6 PLAINTIFF requested the exculpatory evidence from the prosecutor during the prosecution of
7 the underlying criminal matter. CASEY knowingly withheld the exculpatory evidence.

8
9 35. CASEY and JACOBS entered into an agreement to withhold the exculpatory
10 evidence during the prosecution of the underlying criminal matter.

11
12 36. DISTRICT ATTORNEY'S OFFICE OF SONOMA COUNTY has presented a history
13 and pattern of practice of withholding exculpatory evidence, which was addressed by the
14 Sonoma County Grand Jury.

15
16 37. MULLINS, in a supervisory capacity, failed to establish procedures and regulations to
17 ensure communication of all relevant information on each case to every lawyer who deals with
18 a criminal matter; failed to supervise or train assistant district attorneys to disclose exculpatory
19 evidence; and failed to supervise or train assistant district attorneys to refrain from the use of
20 perjured testimony while engaging in the prosecution of criminal matters.

21
22 38. MULLINS, in a supervisory capacity, enacted and/or maintained policies within
23 DISTRICT ATTORNEY'S OFFICE OF SONOMA COUNTY that established discovery
24 procedures that interfered with the disclosure of exculpatory evidence to defendants in a
25 criminal action.

1 39. PASSALACQUA, in a supervisory capacity, failed to establish procedures and
2 regulations within the DISTRICT ATTORNEY'S OFFICE OF SONOMA COUNTY to ensure
3 communication of all relevant information on each case to every lawyer who deals with it;
4 failed to supervise or train assistant and deputy district attorneys on the disclosure of
5 exculpatory evidence during the prosecution of criminal cases; and failed to supervise or train
6 assistant district attorneys to refrain from the use of perjured testimony while engaging in the
7 prosecution of criminal matters, which perpetuated the DISTRICT ATTORNEY'S OFFICE OF
8 SONOMA COUNTY's policy to conceal exculpatory evidence from a defendant in a criminal
9 matter being prosecuted by the DISTRICT ATTORNEY'S OFFICE OF SONOMA COUNTY.

10
11 40. MULLINS and PASSALACQUA, in their supervisory capacity, maintained policies
12 within the DISTRICT ATTORNEY'S OFFICE OF SONOMA COUNTY which established
13 discovery procedures that interfered with the disclosure of exculpatory evidence to defendants
14 in a criminal action.

15
16 41. Defendants, COUNTY OF SONOMA, DISTRICT ATTORNEY'S OFFICE OF
17 SONOMA COUNTY, and SONOMA COUNTY SHERIFF'S DEPARTMENT, failed to
18 supervise or properly train the individual defendants, each of them, and through their lack of
19 proper supervision and training permitted these individuals to commit some or all of the acts
20 complained of in the preceding paragraphs.

21
22 42. Defendants, COUNTY OF SONOMA, DISTRICT ATTORNEY'S OFFICE OF
23 SONOMA COUNTY, and SONOMA COUNTY SHERIFF'S DEPARTMENT, violated the
24 PLAINTIFF's civil rights under the Fifth, Sixth and Fourteenth Amendments to the United
25 States Constitution, as follows:

1 a. In failing to prevent the individual defendants, each of them, from using falsified
2 evidence and withholding exculpatory evidence in criminal matter, after learning that
3 these officers and agents had falsified evidence, and withheld exculpatory evidence
4 from criminal defendants;

5
6 b. In failing to timely notify the PLAINTIFF that these officers and agents had
7 falsified evidence, the individual defendants, each of them, withheld exculpatory
8 evidence from PLAINTIFF, and had knowledge of the problem or should have
9 known the problem existed;

10
11 c. In failing to notify the PLAINTIFF's attorney that defendants, each of them, were
12 falsifying evidence and their case files.

13 43. The DISTRICT ATTORNEY'S OFFICE OF SONOMA COUNTY, and SONOMA
14 COUNTY SHERIFF'S DEPARTMENT are agencies of the COUNTY OF SONOMA and
15 functions under the umbrella of the Sonoma county government. Therefore, the acts and
16 policies of the police department are, in effect, the acts and policies of the COUNTY OF
17 SONOMA.

18
19 44. As a result of the actions of the defendants, each of them, PLAINTIFF was arrested,
20 held for approximately four years in jail without bail, was forced to stand trial, and was found to
21 be not guilty of all counts by a jury of his peers and was released on September 29, 2006.

22
23 45. While PLAINTIFF was in the custody of the SONOMA COUNTY SHERIFF'S
24 DEPARTMENT and the COUNTY OF SONOMA, PLAINTIFF suffered injury and illness.
25 PLAINTIFF requested medical care to treat the illness and injury. PLAINTIFF was denied
26

1 adequate medical care, resulting in injury to his health, strength, and activity, sustaining injury
2 to his nervous system, skeletal system, and person, all of which injuries have caused, and
3 continue to cause PLAINTIFF great mental and physical pain and suffering. PLAINTIFF is
4 informed and believes and thereon alleges that such injuries will result in some permanent
5 disability to him.

6
7 46. On, or about, October 10, 2006, COOK issued statements to a radio broadcast, where
8 she provided public statements which were presented to the public as facts, which in her words
9 were "to set the record straight on a few points." COOK stated that PLAINTIFF was not found
10 innocent, and that PLAINTIFF miserably failed the polygraph test connected to the double
11 murder investigation. COOK made further statements of fact, which stated that PLAINTIFF
12 was a murderer and that the PLAINTIFF was guilty of murder.

13
14 47. On, or about, October 27, 2006, PLAINTIFF demanded in writing that COOK retract all
15 false statements made by COOK, on or about, October 10, 2006.

16
17 48. COOK failed to retract said statements.

18
19 49. PLAINTIFF filed timely claims for damages with both COUNTY and the State of
20 California, which possess jurisdiction over all defendants. Said claims were subsequently
21 denied and the complaint filed in this case was filed within a six-month period after the denials.

22
23 50. As a result solely of the acts of the defendants, PLAINTIFF was denied fundamental
24 rights, was deprived of liberty, and was forced to answer criminal charges of the most heinous
25 nature.

1 51. In addition, PLAINTIFF was forced to undergo the mental anguish and strain of these
2 proceedings and will bear lasting and permanent mental scars of the ordeal, in addition to a
3 permanent scar to his standing in the community.

4
5 52. The acts of the defendants, each of them, were wanton, willful, unlawful, malicious,
6 vicious, and without regard for the system of justice in these United States.

7
8
9 **FIRST CAUSE OF ACTION**
10 **(Common Count)**
11 **VIOLATION OF CONSTITUTIONAL RIGHTS,**
12 **Entitling relief under 42 U.S.C. Sections 1983 and 1985**
13 **(ALL DEFENDANTS)**

14
15 53. PLAINTIFF refers to and incorporates herein the allegations in Paragraphs 1 through 52
16 above.

17
18 54. As a direct and proximate result of defendants' unlawful actions as alleged herein,
19 PLAINTIFF was deprived, under a color of law, without due process of law, of his Fourth
20 Amendment Right to be free from unreasonable search and seizure, to be free from excessive
21 force and to be free from cruel and unusual punishment as a pre-trial detainee, and deprived of
22 his Fifth Amendment right to due process of the law as applied to the States under the
23 Fourteenth Amendment.

24
25 55. As a further direct and proximate result of defendants' unlawful actions, which were
26 willful, wanton, malicious and oppressive or negligent as alleged herein, PLAINTIFF suffered
physical and emotional and other monetary damages entitling him to compensation under 42

1 U.S.C. Sections 1983 and 1985 according to proof, as well as reasonable attorneys fees incurred
2 in pursuing these claims under 42 U.S.C. Section 1988.

3
4 **SECOND CAUSE OF ACTION**
5 **(Common Count)**
6 **VIOLATION OF CONSTITUTIONAL RIGHTS,**
7 **Entitling relief under CGC § 810 et seq, CCC § 51 et seq and CCC § 52 et seq**
8 **(ALL DEFENDANTS)**

9
10 56. PLAINTIFF refers to and incorporates herein the allegations in Paragraphs 1 through 55
11 above.

12 57. As a direct and proximate result of defendants' unlawful actions as alleged herein,
13 PLAINTIFF was deprived, without due process of law, of his Fourth Amendment Right to be
14 free from unreasonable search and seizure, to be free from excessive force and to be free from
15 cruel an unusual punishment as a pre-trial detainee, and deprived of his Fifth Amendment right
16 to due process of the law as applied to the States under the Fourteenth Amendment.

17 58. As a direct and proximate result of defendants' unlawful actions as alleged herein,
18 PLAINTIFF was also deprived, without due process of law, of his right, to be free from
19 unreasonable search and seizure under California Constitution, Article I, Section 13, to be free
20 from excessive force, and to be free from cruel an unusual punishment as a pre-trial detainee
21 under Cal Const, Article I, Section 17, and his right to due process of the law as applied to the
22 State of California under Cal Const, Article I, Section 15.

23 59. As a proximate result of the acts of defendants, defendants interfered by threats,
24 intimidation, or coercion, or attempted to interfere by threats, intimidation, or coercion, with the
25
26

1 exercise or enjoyment of PLAINTIFF's rights secured by the Constitution or laws of the United
2 States, or of the rights secured by the Constitution or laws of the State of California.

3
4 60. As a further direct and proximate result of defendants' unlawful actions as alleged
5 herein, PLAINTIFF suffered physical and emotional and other monetary damages entitling him
6 to compensation, and punitive damages under the California Tort Claims Act, CGC § 810 et seq
7 and the California Unruh Civil Rights Act, CCC § 51 et seq. and CCC § 52 et seq.

8
9 **THIRD CAUSE OF ACTION**
10 **INTENTIONAL/NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**
11 **Entitling relief under CGC § 810 et seq**
12 **(ALL DEFENDANTS)**

13
14 61. PLAINTIFF refers to and incorporates herein Paragraphs 1 through 60 above.

15 62. Defendants' conduct was outrageous, intentional and malicious, or at the least grossly
16 negligent, exhibiting a reckless disregard for PLAINTIFF's rights.

17 63. As a proximate result of the acts of defendants, PLAINTIFF suffered severe emotional
18 distress in the form of humiliation, mental anguish, anxiety, emotional distress, and alienation
19 and physical distress.

20
21 64. As a direct and proximate result of defendant's conduct, PLAINTIFF was injured in
22 mind and body and has suffered general damages in an amount to be determined by proof at
23 trial.

24
25 65. As a further proximate result of the aforementioned acts of defendants, PLAINTIFF was
26 required to and did employ physicians to examine, treat and care for PLAINTIFF, and incurred

1 additional medical expenses in amounts not yet ascertained. PLAINTIFF has been informed
2 and believes and thereon alleges that he will incur additional medical expenses in the future, the
3 exact amounts of which are currently unknown.

4
5 66. By reason of the aforementioned despicable acts of defendants, PLAINTIFF was
6 prevented from attending to his usual business and thereby lost earnings and revenues in
7 amounts not yet ascertained. PLAINTIFF is informed and believes and thereon alleges that he
8 will be deprived from attending to his usual business for a period in the future which cannot yet
9 be ascertained, and will thereby sustain further loss of earning in amounts according to proof.

10
11 67. As a further direct and proximate result of defendants' unlawful actions as alleged
12 herein, PLAINTIFF suffered physical and emotional and other monetary damages entitling him
13 to compensation, and punitive damages under the California Tort Claims Act, CGC § 810 et seq
14 and the California Unruh Civil Rights Act, CCC § 51 et seq. and CCC § 52 et seq.

15
16 **FOURTH CAUSE OF ACTION**
17 **FALSE ARREST**
18 **Entitling relief under 42 U.S.C. Sections 1983 and 1985**
19 **(DEFENDANTS COUNTY OF SONOMA, CASEY, DAVIDSON, POTTS)**

20 68. PLAINTIFF refers to and incorporates herein the allegations in Paragraphs 1 through 67
21 above.

22 69. As herein alleged, PLAINTIFF was falsely arrested by defendants, COUNTY, CASEY,
23 DAVIDSON and POTTS, under color of law, and unlawfully held captive against his will
24 without valid warrant or any valid order of commitment or any other legal authority of any kind
25 by COUNTY, CASEY, DAVIDSON and POTTS. PLAINTIFF was arrested pursuant to an
26

1 invalid arrest warrant, which was issued without probable cause pursuant to a falsified affidavit
2 in violation of PLAINTIFF's civil rights.

3
4 70. As a proximate result of the acts of defendants as alleged, PLAINTIFF suffered physical
5 and emotional injuries all of which have caused, and continue to cause, PLAINTIFF great
6 mental, physical and nervous pain and suffering. PLAINTIFF is informed and believes and
7 thereon alleges that these injuries will result in some permanent disability to him. As a result of
8 these injuries, PLAINTIFF has suffered general damages in amounts not yet ascertained.

9
10 71. As a further proximate result of defendants' acts, PLAINTIFF has been damaged in that
11 he has been required to expend money and incur obligations for legal services, medical services,
12 drugs, and sundries reasonably required in the treatment and relief of the injuries herein alleged
13 in amounts not yet ascertained.

14
15 72. As a further proximate result of the acts of defendants, PLAINTIFF has incurred, and
16 will continue to incur, legal, medical and related expenses. The full amount of the
17 aforementioned expenses are not known to PLAINTIFF at this time.

18
19 73. As a further proximate result of the acts of defendant, PLAINTIFF was prevented from
20 attending to his usual occupation and thereby lost earnings to his damage in amounts not yet
21 ascertained.

22
23 74. As a further proximate result of defendants' actions, PLAINTIFF's present and future
24 earning capacity has been greatly impaired in amounts not yet ascertained.

1 75. The aforementioned acts of defendants in falsely arresting and imprisoning PLAINTIFF
2 were willful and malicious, or grossly negligent, and were intended to oppress and cause injury
3 to PLAINTIFF.

4
5 76. As a further direct and proximate result of defendants' unlawful actions, which were
6 willful, wanton, malicious and oppressive or negligent as alleged herein, PLAINTIFF suffered
7 physical and emotional and other monetary damages entitling him to compensation under 42
8 U.S.C. Sections 1983 and 1985 according to proof, as well as reasonable attorneys fees incurred
9 in pursuing these claims under 42 U.S.C. Section 1988.

10
11 **FIFTH CAUSE OF ACTION
FALSE ARREST**

12 **Entitling relief under CGC § 810 et seq, CCC § 51 et seq and CCC § 52 et seq
(DEFENDANTS COUNTY OF SONOMA, CASEY, DAVIDSON, POTTS)**

13
14 77. PLAINTIFF refers to and incorporates herein the allegations in Paragraphs 1 through 76
15 above.

16
17 78. As herein alleged, PLAINTIFF was falsely arrested by defendants, COUNTY, CASEY,
18 DAVIDSON and POTTS, and unlawfully held captive against his will, maliciously and without
19 valid warrant or any order of commitment or any other legal authority of any kind by
20 COUNTY, CASEY, DAVIDSON and POTTS. PLAINTIFF was arrested and imprisoned
21 pursuant to an invalid arrest warrant, which was issued without probable cause pursuant to a
22 falsified affidavit in violation of his rights provided by the Constitution of the United States and
23 the California Constitution.

24 //

25 //

1 79. As a proximate result of the acts of defendants as alleged, PLAINTIFF suffered physical
2 and emotional injuries all of which have caused, and continue to cause, PLAINTIFF great
3 mental, physical and nervous pain and suffering. PLAINTIFF is informed and believes and
4 thereon alleges that these injuries will result in some permanent disability to him. As a result of
5 these injuries, PLAINTIFF has suffered general damages in amounts not yet ascertained.

6
7 80. As a further proximate result of defendants' acts, PLAINTIFF has been damaged in that
8 he has been required to expend money and incur obligations for legal services, medical services,
9 drugs, and sundries reasonably required in the treatment and relief of the injuries herein alleged
10 in amounts not yet ascertained.

11
12 81. As a further proximate result of the acts of defendants, PLAINTIFF has incurred, and
13 will continue to incur, legal, medical and related expenses. The full amount of the
14 aforementioned expenses are not known to PLAINTIFF at this time.

15
16 82. As a further proximate result of the acts of defendant, PLAINTIFF was prevented from
17 attending to his usual occupation and thereby lost earnings to his damage in amounts not yet
18 ascertained.

19
20 83. As a further proximate result of defendants' actions, PLAINTIFF's present and future
21 earning capacity has been greatly impaired in amounts not yet ascertained.

22
23 84. The aforementioned acts of defendants in falsely arresting and imprisoning PLAINTIFF
24 were willful and malicious, or grossly negligent, and were intended to oppress and cause injury
25 to PLAINTIFF.

1
2 85. As a further direct and proximate result of defendants' unlawful actions as alleged
3 herein, PLAINTIFF suffered physical and emotional and other monetary damages entitling him
4 to compensation, and punitive damages under the California Tort Claims Act, CGC § 810 et seq
5 and the California Unruh Civil Rights Act, CCC § 51 et seq. and CCC § 52 et seq.

6
7 **SIXTH CAUSE OF ACTION**
8 **FALSE IMPRISONMENT**
9 **Entitling relief under 42 U.S.C. Sections 1983 and 1985**
10 **(DEFENDANTS COUNTY OF SONOMA, CASEY, DAVIDSON, POTTS)**

11 86. PLAINTIFF refers to and incorporates herein the allegations in Paragraphs 1 through 85
12 above.

13 87. As herein alleged, PLAINTIFF, under a color of law, was unlawfully held captive
14 against his will and falsely imprisoned maliciously, and without valid warrant or any valid order
15 of commitment or any other legal authority of any kind by defendants, COUNTY, CASEY,
16 DAVIDSON and POTTS. PLAINTIFF was arrested and imprisoned pursuant to an invalid
17 arrest warrant, which was issued without probable cause pursuant to a falsified affidavit in
18 violation of PLAINTIFF's civil rights.

19
20 88. As a proximate result of the acts of defendants as alleged, PLAINTIFF suffered physical
21 and emotional injuries all of which have caused, and continue to cause, PLAINTIFF great
22 mental, physical and nervous pain and suffering. PLAINTIFF is informed and believes and
23 thereon alleges that these injuries will result in some permanent disability to him. As a result of
24 these injuries, PLAINTIFF has suffered general damages in amounts not yet ascertained.

1 89. As a further proximate result of defendants' acts, PLAINTIFF has been damaged in that
2 he has been required to expend money and incur obligations for legal services, medical services,
3 drugs, and sundries reasonably required in the treatment and relief of the injuries herein alleged
4 in amounts not yet ascertained.

5
6 90. As a further proximate result of the acts of defendants, PLAINTIFF has incurred, and
7 will continue to incur, legal, medical and related expenses. The full amount of the
8 aforementioned expenses are not known to PLAINTIFF at this time.

9
10 91. As a further proximate result of the acts of defendant, PLAINTIFF was prevented from
11 attending to his usual occupation and thereby lost earnings to his damage in amounts not yet
12 ascertained.

13
14 92. As a further proximate result of defendants' actions, PLAINTIFF's present and future
15 earning capacity has been greatly impaired in amounts not yet ascertained.

16
17 93. The aforementioned acts of defendants in falsely imprisoning PLAINTIFF were willful
18 and malicious, or grossly negligent, and were intended to oppress and cause injury to
19 PLAINTIFF.

20
21 94. As a further direct and proximate result of defendants' unlawful actions, which were
22 willful, wanton, malicious and oppressive or negligent as alleged herein, PLAINTIFF suffered
23 physical and emotional and other monetary damages entitling him to compensation under 42
24 U.S.C. Sections 1983 and 1985 according to proof, as well as reasonable attorneys fees incurred
25 in pursuing these claims under 42 U.S.C. Section 1988.

**SEVENTH CAUSE OF ACTION
FALSE IMPRISONMENT**

**Entitling relief under CGC § 810 et seq, CCC § 51 et seq and CCC § 52 et seq
(DEFENDANTS COUNTY OF SONOMA, CASEY, DAVIDSON, POTTS)**

95. PLAINTIFF refers to and incorporates herein the allegations in Paragraphs 1 through 94 above.

96. As herein alleged, PLAINTIFF was falsely arrested by defendants, COUNTY, CASEY, DAVIDSON and POTTS, and unlawfully held captive against his will and falsely imprisoned maliciously and without valid warrant or any order of commitment or any other legal authority of any kind by COUNTY, CASEY, DAVIDSON and POTTS. PLAINTIFF was arrested and imprisoned pursuant to an invalid arrest warrant, which was issued without probable cause pursuant to a falsified affidavit in violation of his rights provided by the Constitution of the United States and the California Constitution.

97. As a proximate result of the acts of defendants as alleged, PLAINTIFF suffered physical and emotional injuries all of which have caused, and continue to cause, PLAINTIFF great mental, physical and nervous pain and suffering. PLAINTIFF is informed and believes and thereon alleges that these injuries will result in some permanent disability to him. As a result of these injuries, PLAINTIFF has suffered general damages in amounts not yet ascertained.

98. As a further proximate result of defendants' acts, PLAINTIFF has been damaged in that he has been required to expend money and incur obligations for legal services, medical services, drugs, and sundries reasonably required in the treatment and relief of the injuries herein alleged in amounts not yet ascertained.

1 99. As a further proximate result of the acts of defendants, PLAINTIFF has incurred, and
2 will continue to incur, legal, medical and related expenses. The full amount of the
3 aforementioned expenses are not known to PLAINTIFF at this time.

4
5 100. As a further proximate result of the acts of defendant, PLAINTIFF was prevented from
6 attending to his usual occupation and thereby lost earnings to his damage in amounts not yet
7 ascertained.

8
9 101. As a further proximate result of defendants' actions, PLAINTIFF's present and future
10 earning capacity has been greatly impaired in amounts not yet ascertained.

11
12 102. The aforementioned acts of defendants in falsely arresting and imprisoning PLAINTIFF
13 were willful and malicious, or grossly negligent, and were intended to oppress and cause injury
14 to PLAINTIFF.

15
16 103. As a further direct and proximate result of defendants' unlawful actions as alleged
17 herein, PLAINTIFF suffered physical and emotional and other monetary damages entitling him
18 to compensation, and punitive damages under the California Tort Claims Act, CGC § 810 et seq
19 and the California Unruh Civil Rights Act, CCC § 51 et seq. and CCC § 52 et seq.

20
21 **EIGHTH CAUSE OF ACTION**
22 **VIOLATION OF STATE OF CALIFORNIA CONSTITUTION ARTICLE I SECTION**
23 **13 BY PRESENTING FALSE AFFIDAVIT IN SUPPORT OF ARREST WARRANT**
24 **Entitling relief under CGC § 810 et seq, CCC § 51 et seq and CCC § 52 et seq**
25 **(DEFENDANTS CASEY AND DAVIDSON)**

26 104. PLAINTIFF refers to and incorporates herein the allegations in Paragraphs 1 through 103
above.

1 105. On or about, May 8, 2002 defendant's CASEY and DAVIDSON executed an arrest
2 warrant for the arrest of PLAINTIFF. The arrest warrant was obtained in violation of State
3 Constitution Article I Section 13 in that DAVIDSON, under the orders and direction of
4 CASEY, presented to a magistrate a false affidavit in support of the arrest warrant that
5 contained materially false information, which without its inclusion in the supporting affidavit
6 the warrant would not have issued. Said false statements were made in conscious disregard for
7 the truth and or were intentionally made by DAVIDSON knowing said statements to be false.

8
9 106. As a proximate result of the acts of defendants, defendants interfered by threats,
10 intimidation, or coercion, or attempted to interfere by threats, intimidation, or coercion, with the
11 exercise or enjoyment of PLAINTIFF's rights secured by the Constitution or laws of the United
12 States, or of the rights secured by the Constitution or laws of the State of California.

13
14 107. As a proximate result of the acts of defendants as alleged, PLAINTIFF suffered physical
15 and emotional injuries all of which have caused, and continue to cause, PLAINTIFF great
16 mental, physical and nervous pain and suffering. PLAINTIFF is informed and believes and
17 thereon alleges that these injuries will result in some permanent disability to him. As a result of
18 these injuries, PLAINTIFF has suffered general damages in amounts not yet ascertained.

19
20 108. As a further proximate result of defendants' acts, PLAINTIFF has been damaged in that
21 he has been required to expend money and incur obligations for legal services, medical services,
22 drugs, and sundries reasonably required in the treatment and relief of the injuries herein alleged
23 in amounts not yet ascertained.

1 109. As a further proximate result of the acts of defendants, PLAINTIFF has incurred, and
2 will continue to incur, legal, medical and related expenses. The full amount of these expenses is
3 not known to PLAINTIFF at this time.

4
5 110. As a further proximate result of the acts of defendant, PLAINTIFF was prevented from
6 attending to his usual occupation and thereby lost earnings to his damage in amounts not yet
7 ascertained.

8
9 111. As a further proximate result of defendants' actions, PLAINTIFF's present and future
10 earning capacity has been greatly impaired in amounts not yet ascertained.

11
12 112. The aforementioned acts of defendants in falsely arresting and imprisoning PLAINTIFF
13 pursuant to the arrest warrant obtained by the false affidavit were willful and malicious, or
14 grossly negligent, and were intended to oppress and cause injury to PLAINTIFF.

15
16 113. As a further direct and proximate result of defendants' unlawful actions as alleged
17 herein, PLAINTIFF suffered physical and emotional and other monetary damages entitling him
18 to compensation, and punitive damages under the California Tort Claims Act, CGC § 810 et seq
19 and the California Unruh Civil Rights Act, CCC § 51 et seq. and CCC § 52 et seq.

20 **NINTH CAUSE OF ACTION**
21 **VIOLATION OF UNITED STATES CONSTITUTION BY PRESENTING FALSE**
22 **AFFIDAVIT IN SUPPORT OF ARREST WARRANT**
23 **Entitling relief under 42 U.S.C. Sections 1983**
24 **(DEFENDANTS CASEY AND DAVIDSON)**

25 114. PLAINTIFF refers to and incorporates herein the allegations in Paragraphs 1 though 113
26 above.

1 115. On or about, May 8, 2002 defendant's CASEY and DAVIDSON executed an arrest
2 warrant for the arrest of PLAINTIFF. The arrest warrant was obtained in violation the Fourth
3 Amendment Right to be free from unreasonable search and seizure, and Fifth Amendment right
4 to due process of the law as applied to the States under the Fourteenth Amendment in that
5 DAVIDSON, under the orders and direction of CASEY, presented to a magistrate a false
6 affidavit in support of the arrest warrant that contained materially false information, which
7 without its inclusion in the supporting affidavit the warrant would not have issued. Said false
8 statements were made in conscious disregard for the truth and or were intentionally made by
9 DAVIDSON knowing said statements to be false.

10
11 116. As a proximate result of the acts of defendants as alleged, PLAINTIFF suffered physical
12 and emotional injuries all of which have caused, and continue to cause, PLAINTIFF great
13 mental, physical and nervous pain and suffering. PLAINTIFF is informed and believes and
14 thereon alleges that these injuries will result in some permanent disability to him. As a result of
15 these injuries, PLAINTIFF has suffered general damages in amounts not yet ascertained.

16
17 117. As a further proximate result of defendants' acts, PLAINTIFF has been damaged in that
18 he has been required to expend money and incur obligations for legal services, medical services,
19 drugs, and sundries reasonably required in the treatment and relief of the injuries herein alleged
20 in amounts not yet ascertained.

21
22 118. As a further proximate result of the acts of defendants, PLAINTIFF has incurred, and
23 will continue to incur, legal, medical and related expenses. The full amount of these expenses is
24 not known to PLAINTIFF at this time.

1 119. As a further proximate result of the acts of defendant, PLAINTIFF was prevented from
2 attending to his usual occupation and thereby lost earnings to his damage in amounts not yet
3 ascertained.

4
5 120. As a further proximate result of defendants' actions, PLAINTIFF's present and future
6 earning capacity has been greatly impaired in amounts not yet ascertained.

7
8 121. The aforementioned acts of defendants in falsely arresting and imprisoning PLAINTIFF
9 pursuant to the arrest warrant obtained by the false affidavit were willful and malicious, or
10 grossly negligent, and were intended to oppress and cause injury to PLAINTIFF.

11
12 122. As a further direct and proximate result of defendants' unlawful actions, which were
13 willful, wanton, malicious and oppressive or negligent as alleged herein, PLAINTIFF suffered
14 physical and emotional and other monetary damages entitling him to compensation under 42
15 U.S.C. Sections 1983 and 1985 according to proof, as well as reasonable attorneys fees incurred
16 in pursuing these claims under 42 U.S.C. Section 1988.

17
18 **TENTH CAUSE OF ACTION**
19 **DEFAMATION, SLANDER AND LIBEL**
20 **Entitling relief under CGC § 810 et seq**
21 **(DEFENDANT COOK)**

22 123. PLAINTIFF refers to and incorporates herein the allegations in Paragraphs 1 through 122
23 above.

24 124. On or about, October 10, 2006, defendant COOK committed acts, outside the scope of
25 her official duties, which consisted of issuing a false and unprivileged publication which
26

1 exposed PLAINTIFF to hatred, contempt, ridicule, disgrace, which caused PLAINTIFF to be
2 shunned, avoided and injured his occupation.

3
4 125. The false and unprivileged publication made by COOK concerning PLAINTIFF was
5 made with her knowledge that it was false or with reckless disregard as to whether it was false
6 or not.

7
8 126. On or about, October 27, 2006, PLAINTIFF demanded defendant COOK to retract and
9 correct the false and unprivileged publication made by COOK concerning PLAINTIFF.

10
11 127. Defendant COOK failed to correct the false and unprivileged publication concerning the
12 PLAINTIFF.

13
14 128. Defendant COOK made the false and unprivileged publication concerning the
15 PLAINTIFF in the deliberate and successful attempt to destroy PLAINTIFF's present and
16 future employment, reputation and family relationships.

17
18 129. Defendant's conduct was not only outrageous, it was intentional and malicious,
19 exhibiting a reckless disregard for PLAINTIFF's rights, causing PLAINTIFF to suffer
20 humiliation, mental anguish, stress and emotional and physical distress and PLAINTIFF was
21 injured financially, and injured in mind and body, all to his damage in amounts according to
22 proof.

23
24 130. Defendant's conduct was also intentional and malicious, exhibiting a reckless disregard
25 for PLAINTIFF's rights, causing PLAINTIFF to suffer humiliation, mental anguish, stress and
26

1 emotional and physical distress. Defendant was therefore guilty of malice, oppression
2 amounting to despicable conduct so as to justify an award of exemplary or punitive damages.

3
4 131. As a further direct and proximate result of defendants' unlawful actions as alleged
5 herein, PLAINTIFF suffered physical and emotional and other monetary damages entitling him
6 to compensation, and punitive damages under the California Tort Claims Act, CGC § 810 et seq
7 and CCC §§ 44-48a.

8
9 **ELEVENTH CAUSE OF ACTION**
10 **CONSPIRACY PURSUANT TO 42 U.S.C. §§ 1983 and 1985**
11 **(ALL DEFENDANTS)**

12 132. PLAINTIFF refers to and incorporates herein the allegations in Paragraphs 1 through 131
13 above.

14 133. In a combination of two or more persons, defendants acted in concert to commit an
15 individual act, or a lawful act by unlawful means, to deprive plaintiff of a protected right and to
16 inflict a wrong against or injury upon PLAINTIFF. In committing the individual act, or a
17 lawful act by unlawful means, the defendants made an agreement to inflict a wrong against or
18 injury upon PLAINTIFF.

19
20 134. Defendants further obstructed justice by conspiring to deter, by force, intimidation, or
21 threat, a witness in the Superior Court of California from testifying to a matter pending in the
22 underlying criminal matter, and to prevent a witness from testifying freely, fully, and truthfully,
23 and/or to injure said witness in his person or property on account of his having so attended or
24 testified, or to influence the presentment of the underlying criminal matter at the preliminary
25 hearing and/or subsequent pre-trial hearings and/or trial.

1 135. Defendant's further obstructed justice by conspiring for the purpose of impeding,
2 hindering, obstructing, or defeating, the due course of justice in the underlying criminal matter,
3 with intent to deny to the plaintiff his right to due process and the equal protection of the laws.
4

5 136. As a result of the defendants' acts, PLAINTIFF was deprived of his constitutional right
6 to be free from unlawful searches and seizures, and his right to be free from violence or
7 intimidation, and deprived of his right to equal protection, and due process.
8

9 137. Defendants' conduct was not only outrageous, it was intentional and malicious,
10 exhibiting a reckless disregard for PLAINTIFF's rights, causing PLAINTIFF to suffer
11 humiliation, mental anguish, stress and emotional and physical distress and PLAINTIFF was
12 injured financially, and injured in mind and body, all to his damage in amounts according to
13 proof.
14

15 138. Defendants' conduct was also intentional and malicious, exhibiting a reckless disregard
16 for PLAINTIFF's rights, causing PLAINTIFF to suffer humiliation, mental anguish, stress and
17 emotional and physical distress. Defendants were therefore guilty of malice, oppression
18 amounting to despicable conduct entitling him to compensation under 42 U.S.C. Sections 1983
19 and 1985 according to proof, as well as reasonable attorneys fees incurred in pursuing these
20 claims under 42 U.S.C. Section 1988.
21

22 **TWELFTH CAUSE OF ACTION -**
23 **VIOLATION OF CONSTITUTIONAL RIGHTS –TO WIT: DENIAL OF A FAIR TRIAL**
24 **Entitling relief under 42 U.S.C. Sections 1983 and 1985**
25 **(ALL DEFENDANTS)**

26 139. PLAINTIFF refers to and incorporates herein the allegations in Paragraphs 1 through
138 above.

1 140. As a direct and proximate result of defendants' unlawful actions as alleged herein,
2 PLAINTIFF was, under a color of law, deprived of his due process right to a fair trial, and his
3 Fifth Amendment right to due process of the law as applied to the states under the Fourteenth
4 Amendment.

5
6 141. As a further direct and proximate result of defendants' unlawful actions, which were
7 willful, wanton, malicious and oppressive or negligent as alleged herein, PLAINTIFF suffered
8 physical and emotional and other monetary damages entitling him to compensation under 42
9 U.S.C. Sections 1983 and 1985 according to proof, as well as reasonable attorneys fees incurred
10 in pursuing these claims under 42 U.S.C. Section 1988.

11
12 **THIRTEENTH CAUSE OF ACTION -**
13 **VIOLATION OF CONSTITUTIONAL RIGHTS –TO WIT: DENIAL OF A FAIR TRIAL**
14 **AND DENIAL OF DUE PROCESS**
15 **Entitling relief under CCC § 51 et seq and CCC § 52 et seq and CGC § 810 et seq**
16 **(ALL DEFENDANTS)**

17
18 142. PLAINTIFF refers to and incorporates herein the allegations in Paragraphs 1 through
19 141 above.

20
21 143. As a direct and proximate result of defendants' unlawful actions as alleged herein,
22 PLAINTIFF was deprived of his due process right to a fair trial, and his Fifth Amendment right
23 to due process of the law as applied to the states under the Fourteenth Amendment.

24
25 144. As a direct and proximate result of defendants' unlawful actions as alleged herein,
26 PLAINTIFF was deprived of his due process right to a fair trial, and his right to due process of
the law as provided by the Constitution of the State of California, Article I, Section 15.

1 145. As a further direct and proximate result of defendants' unlawful actions as alleged
2 herein, PLAINTIFF suffered physical and emotional and other monetary damages entitling him
3 to compensation, and punitive damages under the California Tort Claims Act, CGC § 810 et seq
4 and the California Unruh Civil Rights Act, CCC § 51 et seq. and CCC § 52 et seq.

5
6 **FOURTEENTH CAUSE OF ACTION**
7 **VIOLATION OF CONSTITUTIONAL RIGHTS BY FAILING TO ADEQUATELY**
8 **TRAIN AND SUPERVISE DEPUTY DISTRICT ATTORNEYS**
9 **Entitling relief under 42 U.S.C. Sections 1983 and 1985**
10 **(DEFENDANT MULLINS)**

11
12 146. PLAINTIFF refers to and incorporates herein the allegations in Paragraphs 1 through
13 145 above.

14
15 147. Defendant MULLINS had knowledge of the constitutional violations alleged herein,
16 and/or should have known, and had constructive knowledge of the constitutional violations,
17 because the violations were so prevalent that the supervisor should have known of them in the
18 proper exercise of his duties.

19
20 148. Defendant MULLINS failed to rectify the violations, and failed to adequately train or
21 supervise subordinate in order to prevent the constitutional violations.

22
23 149. As a direct and proximate result of defendant's unlawful actions as alleged herein,
24 PLAINTIFF was deprived of his Fourth Amendment Right to be free from unreasonable search
25 and seizure and to be free from excessive force and to be free from cruel and unusual punishment
26 as a pre-trial detainee, and his Fifth Amendment right to due process of the law as applied to the
states under the Fourteenth Amendment.

1 150. As a further direct and proximate result of defendant's unlawful actions as alleged
2 herein, PLAINTIFF suffered physical and emotional and other monetary damages entitling him
3 to compensation under 42 U.S.C. Sections 1983 and 1985 according to proof, as well as
4 reasonable attorneys fees incurred in pursuing these claims under 42 U.S.C. Section 1988.

5
6 **FIFTEENTH CAUSE OF ACTION**
7 **VIOLATION OF CONSTITUTIONAL RIGHTS BY FAILING TO ADEQUATELY**
8 **TRAIN AND SUPERVISE DEPUTY DISTRICT ATTORNEYS**
9 **Entitling relief under 42 U.S.C. Sections 1983 and 1985**
10 **(DEFENDANT PASSALACQUA)**

11
12 151. PLAINTIFF refers to and incorporates herein the allegations in Paragraphs 1 through
13 150 above.

14
15 152. Defendant PASSALACQUA had knowledge of the constitutional violations alleged
16 herein, and/or should have known, and had constructive knowledge of the constitutional
17 violations, because the violations were so prevalent that the supervisor should have known of
18 them in the proper exercise of his duties.

19
20 153. Defendant PASSALACQUA failed to rectify the violations, and failed to adequately
21 train or supervise subordinate in order to prevent the constitutional violations.

22
23 154. As a direct and proximate result of defendant's unlawful actions as alleged herein,
24 PLAINTIFF was deprived of his Fourth Amendment Right to be free from unreasonable search
25 and seizure and to be free from excessive force and to be free from cruel and unusual punishment
26 as a pre-trial detainee, and his Fifth Amendment right to due process of the law as applied to the
states under the Fourteenth Amendment.

1 155. As a further direct and proximate result of defendant's unlawful actions as alleged
2 herein, PLAINTIFF suffered physical and emotional and other monetary damages entitling him
3 to compensation under 42 U.S.C. Sections 1983 and 1985 according to proof, as well as
4 reasonable attorneys fees incurred in pursuing these claims under 42 U.S.C. Section 1988.

5 **SIXTEENTH CAUSE OF ACTION**
6 **MALICIOUS PROSECUTION**
7 **Entitling relief under 42 U.S.C. Sections 1983 and 1985, and**
8 **CCC § 51 et seq and CCC § 52 et seq and CGC § 810 et seq**
9 **(ALL DEFENDANTS)**

10 156. PLAINTIFF refers to and incorporates herein the allegations in Paragraphs 1 through
11 155 above.

12 157. As a direct and proximate result of defendants' unlawful conscience-shocking actions as
13 alleged herein, PLAINTIFF was deprived of liberty without due process of law, in that
14 defendants intentionally or with reckless indifference fabricated, falsified evidence to provide
15 the appearance of probable cause to hold plaintiff on murder charges and withheld evidence that
16 would enable PLAINTFF to prove his innocence.

17 158. As a direct and proximate result of defendants' unlawful actions plaintiff suffered four
18 years of detention and great humiliation, ridicule, and mental anguish.

19 159. As a further direct and proximate result of defendant's unlawful actions as alleged
20 herein, PLAINTIFF suffered physical and emotional and other monetary damages entitling him
21 to compensation under 42 U.S.C. Sections 1983 and 1985 according to proof, as well as
22 reasonable attorneys fees incurred in pursuing these claims under 42 U.S.C. Section 1988.
23
24
25
26

160. As a further direct and proximate result of defendants' unlawful actions as alleged herein, PLAINTIFF suffered physical and emotional and other monetary damages entitling him to compensation, and punitive damages under the California Tort Claims Act, CGC § 810 et seq and the California Unruh Civil Rights Act, CCC § 51 et seq. and CCC § 52 et seq.

DEMAND FOR JURY TRIAL

161. PLAINTIFF hereby demands a trial by jury on all of the above causes of action.

WHEREFORE, PLAINTIFF prays for the following relief as to all causes of action:

- A. A judgment awarding PLAINTIFF general, damages to plaintiff in an amount to be determined by the trier of fact as sufficient to compensate the plaintiff for the injuries described in this complaint;
- B. An award of punitive damages to plaintiff in an amount to be determined by the trier of fact as sufficient to punish each defendant against whom these damages are awarded and sufficient to deter similar conduct in the future by these defendants;
- C. A judgment awarding PLAINTIFF reasonable attorneys fees;
- D. A judgment awarding PLAINTIFF his costs of suit; and
- E. Such other and further relief as the Court deems proper.

Dated: December 21, 2007

Editte Lerman
Attorney for Plaintiff
ZACHARIAH JUDSON RUTLEDGE